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Attorneys for Plaintiff
American Piledriving Equipment, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
AT SAN FRANCISCO

AMERICAN PILEDRIVING EQUIPMENT,
INC., a Washington corporation,

Plaintiff,

v.

BAY MACHINERY CORPORATION, a
California corporation,

Defendant.

Case No. CV 08 1934 PJH

**PLAINTIFF AMERICAN PILEDRIVING
EQUIPMENT'S ANSWER TO
COUNTERCLAIMS**

Plaintiff, American Piledriving Equipment, Inc. (hereinafter "APE"), by and through its attorneys, hereby answers the Counterclaim of defendant Bay Machinery Corporation, Inc. ("BAY"), and responds to the numbered allegations of the Counterclaims as follows:

1. APE admits, upon information and belief, the allegations contained in paragraph 1 of the Counterclaim.
2. APE admits the allegations contained in paragraph 2 of the Counterclaim.
3. APE admits, upon information and belief, the allegations contained in paragraph 3

1 of the Counterclaim.

2 4. APE admits the allegations contained in paragraph 4 of the Counterclaim.

3 5. APE admits the allegations contained in paragraph 5 of the Counterclaim.

4 **COUNT 1 – DECLARATION OF NON-INFRINGEMENT**

5 6. APE admits the allegations contained in paragraph 6 of the Counterclaim.

6 7. APE denies the allegations contained in paragraph 7 of the Counterclaim.

7 8. APE denies the allegations contained in paragraph 8 of the Counterclaim.

8 **COUNT 2 – DECLARATION OF INVALIDITY**

9 9. APE denies the allegations contained in paragraph 9 of the Counterclaim.

10 10. APE denies the allegations contained in paragraph 10 of the Counterclaim.

11 11. APE admits the allegations contained in paragraph 11 of the Counterclaim.

12 The remaining allegations constitute prayers for relief that can neither be admitted nor
13 denied by APE. To the extent that APE is required to respond to said allegations, APE denies that
14 BAY is entitled to any such relief.

15 DATED: August 15, 2008

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

17 By: /s/ Jeffrey L. Fillerup

18 Jeffrey L. Fillerup

19 Attorneys for Plaintiff

American Piledriving Equipment, Inc.

21 DATED: August 15, 2008

MADSON & AUSTIN, P.C.

23 By: /s/ Craig J. Madson

24 Craig J. Madson

25 Attorneys for Plaintiff

American Piledriving Equipment, Inc.